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In the Supreme Court of the United States.

OCTOBER TERM, 1900.

FERDINAND EIDMAN, COLLECTOR, ETC., plaintiff in error,
against
MIGUEL R. MARTINEZ, AS ANCILLARY administrator, etc., defendant in error.

No. 615.

MOTION TO ADVANCE.

This case is before the court on questions certified by the United States circuit court of appeals for the second circuit.

And now comes the plaintiff in error by the Solicitor-General and moves the court to advance the cause on the docket and assign the same for argument during the next term of the court in October, 1901.

This action was brought by the defendant in error in the circuit court of the United States for the southern district of New York to recover the amount paid by him to the collector under protest as a tax upon legacies and distributive shares assessed under the twenty-ninth and thirtieth sections of the war-revenue law of June 13, 1898. The collector demurred, the demurrer was overruled, and a final judgment entered against the collector for the amount claimed, with interest and

costs. The collector thereupon sued out a writ of error in the United States circuit court of appeals for the second circuit. The cause came on for argument before that court, and the judges thereupon certified the following questions of law to this court:

1. Is any tax or duty imposed by the twenty-ninth and thirtieth sections of the act of Congress of June 13, 1898, entitled "An act to provide ways and means to meet war expenditures, and for other purposes," upon the passing of any legacy arising out of the personal property of a nonresident alien who has never resided or had a domicile within the United States and who dies without the United States in the year 1899, leaving a will made and executed at his foreign domicile, pursuant to the laws thereof, by which he gives all his property to a nonresident alien legatee, and who leaves certain personal property within the State of New York exceeding $10,000 in value?

2. Is any tax or duty imposed by the twenty-ninth and thirtieth sections of the act of Congress of June 13, 1898, entitled "An act to provide ways and means to meet war expenditures, and for other purposes," upon the passing of any distributive share arising out of the personal property of a nonresident alien who has never resided or had a domicile within the United States and who dies without the United States in the year 1899 intestate, and by the law of his foreign domicile all of his personal property passes to his son, also a nonresident alien, and who leaves certain personal property within the State of New York exceeding $10,000 in value?

This case is one which involves a matter of general public interest. The liability of a large number of other estates of nonresident alien decedents to the payment of this tax depends upon the answer to be given to these questions, and, until the decision of this court thereon, said estates can not be settled and distributed. A large amount of revenue to which the Government believes that it is entitled is meantime withheld under the decision of the circuit court.

It is for the reasons aforesaid, respectfully submitted, that this case may properly be advanced for hearing early in the next term.

JOHN K. RICHARDS,
Solicitor-General.

I concur in the above application.

J. G. CARLISLE,
For Defendant in Error.

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